

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THYRONE DESHAWN EVANS, #338014,

Petitioner,

v.

CASE NO. 2:19-CV-10284
HONORABLE LINDA V. PARKER

CONNIE HORTON,

Respondent.

_____ /

**OPINION & ORDER DISMISSING THE PETITION FOR WRIT OF
HABEAS CORPUS, DENYING THE APPLICATION TO PROCEED
IN FORMA PAUPERIS & DENYING A CERTIFICATE OF
APPEALABILITY**

Michigan prisoner Thyrone Deshawn Evans (“Petitioner”) has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and an application to proceed in forma pauperis. Petitioner’s certificate of prisoner institutional/trust fund account activity states that he had a current spendable account balance of \$166.05 in his prison account as of January 17, 2019 when an administrative officer of the Michigan Department of Corrections certified his financial statement. The Court concludes from the financial data that Petitioner has not established indigence and that he can pay the \$5.00 filing fee for this action. Accordingly, the Court **DENIES** Petitioner’s application to proceed in forma pauperis and **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. The Court is

required to dismiss the case because the allegation of poverty is untrue. 28 U.S.C. § 1915(e)(2)(A). Petitioner may submit a new habeas petition with payment of the filing fee in a new case. This case will not be reopened.

Before Petitioner may appeal, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When a court denies relief on the merits, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the court's assessment of the constitutional claim debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). When a court denies relief on procedural grounds, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the court was correct in its procedural ruling. *Id.* Jurists of reason would not find the Court’s procedural ruling debatable. Accordingly, the Court **DENIES** a certificate of appealability. This case is closed.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: May 21, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, May 21, 2019, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager